UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
BROWNSVILLE DIVISION

FRANCISCO LOPEZ-IBANEZ,	§	
Petitioner,	§	
	§	
v.	§	Civil Action No. 1:15-cv-202
	§	Criminal No. 1:14-cr-158-1
UNITED STATES OF AMERICA,	§	
Respondent.	§	
	§	
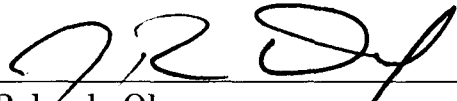
ORDER ADOPTING MAGISTRATE
JUDGE'S REPORT AND RECOMMENDATION

Before the Court is the Magistrate Judge's Report and Recommendation (hereafter "R&R") in the above-referenced cause of action, recommending that Lopez-Ibanez's sentence be vacated and that he be resentenced. Docket No. 43 at 1, 15. On August 19, 2016, Lopez-Ibanez filed an objection to the Magistrate Judge's R&R, stating that although he "generally agrees" with the R&R, the conclusion set forth in paragraph V of the R&R, Docket No. 43 at 15, contains some ambiguity, insofar as it states that "[a]ll other requests for relief should be denied without prejudice at this time." Docket No. 44 at 2. Lopez-Ibanez states that because the law regarding his sixteen (16) level enhancement for a "crime of violence" under United States Sentencing Guidelines § 2L1.2(b)(1)(A)(ii) has changed in light of the Supreme Court's rulings in *Johnson v. United States*, ___ U.S. ___, 135 S. Ct. 2551 (2015) and *Welch v. United States*, ___ U.S. ___, 136 S. Ct. 1257 (2016), he may be entitled to additional relief. As such, Lopez-Ibanez requests that in addition to resentencing him, this Court order the Probation Office to prepare an amended Pre-Sentence Investigation Report (hereafter "PSR") and give both parties the opportunity to object.

After a de novo review of the file, the Magistrate Judge's Report and Recommendation is **ADOPTED**, and thereby Lopez-Ibanez's Motion to Vacate, Set

Aside, or Correct Sentence under 28 U.S.C. § 2255, Docket No. 1, is **GRANTED**. It is further **ORDERED** that a resentencing hearing shall be held at 10:00 a.m. on October 5, 2016. The Probation Office is **ORDERED** to file an updated PSR on or before September 20, 2016. Objections to the PSR are due on or before September 27, 2016.

Signed on this _____6th_____ day of _____September_____, 2016.

_____
Rolando Olvera
United States District Judge